

MICHAEL P. STONE, SBN 91142  
MUNA BUSAILAH, SBN 166328  
Email: [m.busailah@police-defense.com](mailto:m.busailah@police-defense.com)  
Members of **STONE BUSAILAH, LLP**  
*A Partnership of Professional Law Corporations*  
Email: [d.danial@police-defense.com](mailto:d.danial@police-defense.com)  
1055 East Colorado Boulevard, Suite 320  
Pasadena, California 91106  
Telephone: (626) 683-5600  
Facsimile: (626) 683-5656

*Attorneys for Defendants* **JOSE ZAVALA and**  
**JULIO QUINTANILLA**

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

MARGARITO T. LOPEZ, SONIA  
TORRES, KENI LOPEZ, ROSY  
LOPEZ,

Plaintiffs,

v.

CITY OF LOS ANGELES, JOSE  
ZAVALA, JULIO QUINTANILLA,  
AND DOES 1 THROUGH 10,  
INCLUSIVE,

Defendants.

**CASE NO. 2:22-cv-07534-FLA-MAAx**

*[Assigned to Judge Fernando L. Aenlle-Rocha,  
USDC-Hon. Mag. Maria A. Audero, USDC-  
Roybal Bldg]*

**DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' NOTICE OF MOTION  
AND MOTION IN LIMINE NO. 2 TO  
EXCLUDE ANY ARGUMENT  
REGARDING A "SUICIDE BY COP"  
THEORY**

FPTC: May 31, 2024  
TIME: 1:00 PM  
DEPT: 6B, 6<sup>th</sup> Floor

PLEASE TAKE NOTICE THAT Defendants OFFICERS JOSE ZAVALA  
AND JULIO QUINTANILLA (collectively "Defendant-Officers"), will and  
hereby do request that this Court deny Plaintiffs' motion in limine to exclude  
argument and evidence pertaining to a "suicide by cop" defense. Plaintiffs' motion  
throws countless arguments at the wall in a misguided attempt to exclude evidence

1 of a potentially dispositive defense advanced by the Defendant-Officers. None  
2 stick. Of course, “[s]uicide by cop’ is a recognized and regrettable phenomenon.”  
3  
4 *Est. of Jackson v. City of Modesto*, No. 1:21-CV-0415 AWI EPG, 2021 WL  
5 4819604, at \*15, n.12 (E.D. Cal. Oct. 14, 2021) (citing in part *Lal v. California*,  
6 746 F.3d 1112, 1117-20 (9th Cir. 2014)). But the inherent somberness of the  
7  
8 theory does not render evidence supporting the defense inadmissible at trial. To  
9 the contrary, such evidence must be admitted to ensure the Defendant-Officers,  
10 like the Plaintiffs, receive a fair trial.  
11

## 12 **I. EVIDENCE OF “SUICIDE BY COP” IS RELEVANT AND** 13 **ADMISSIBLE**

14  
15 This Court should find that evidence, including testimony, of the Defendant-  
16 Officers’ “suicide by cop” defense is admissible at trial. To start, *Boyd v. City and*  
17 *County of San Francisco*, 576 F.3d 938 (9th Cir. 2009) controls the outcome of  
18 Plaintiffs’ motion. In *Boyd*, a fatal shooting excessive force case brought by  
19 survivors of the decedent, the Ninth Circuit considered the admissibility of the  
20 decedent’s criminal history and prior acts. *Id.* at 944–945. The Ninth Circuit  
21 concluded that the district court properly admitted the evidence in the context of  
22 the defense’s suicide by cop theory, as the evidence was probative of the  
23 decedent’s provoking a police shooting. *Id.* The Ninth Circuit specifically held  
24 that, “where what the officer perceived just prior to the use of force is in dispute,  
25 evidence that may support one version of events over another is relevant and  
26  
27  
28

1 admissible.” *Id.* at 944.

2       Despite *Boyd*’s clear application to this case, Plaintiffs make no attempt to  
3 distinguish – or even mention – the rule espoused by the Ninth Circuit in the case.  
4 Rather, Plaintiffs attempt to frame the issue in part as relating to Decedent’s ‘state  
5 of mind.’ Dkt. #68, Page ID #:506-08. But that wrongly portrays the suicide-by-  
6 copy defense and evidence in support of it.  
7

8       Plaintiffs further cast the issue as one involving the Defendant-Officers’  
9 state of mind. That gets closer, but still misses the mark. The evidence, defense,  
10 and argument of suicide by cop is one of perception. And it is what the Defendant-  
11 Officers *perceived* that renders the evidence relevant and admissible. *See Boyd*,  
12 576 F.3d at 944.  
13

14       Plaintiffs nonetheless wish for this Court to read *Graham*’s reasonableness  
15 inquiry in a vacuum. Plaintiffs’ argument that the Defendant-Officers’ perception  
16 plays no part in the *Graham* reasonableness inquiry because it is “judged from an  
17 objective standpoint [] of a reasonable officer on the scene[,]” Dkt. #68, Page ID  
18 #:507, is a woeful misunderstanding of the reasonableness standard. “Information  
19 . . . *observed* by officers at the time of the incident is relevant to the use of force  
20 calculation under *Graham*.” *Watson v. City of San Jose (San Jose Police Dep’t)*,  
21 765 F. App’x 248, 250–51 (9th Cir. 2019) (citing in part *Hayes v. County of San*  
22 *Diego*, 736 F.3d 1223, 1232–33 (9th Cir. 2013)) (emphasis added). Indeed, the  
23 Ninth Circuit has opined that an “officers’ perception of [a] threat posed by [an  
24  
25  
26  
27  
28

1 individual is] indisputably relevant to the question whether the force they  
2 employed was excessive . . . .” *Allen v. Rivera*, 626 F. App'x 710, 713 (9th Cir.  
3 2015). The *Graham* reasonableness query considers whether the *particular*  
4 *officers’ perceptions* leading to the use of force were “as a regular officer would  
5 have perceived them . . . .” *Fuciarelli v. Good*, No. CV-14-01078-PHX-GMS,  
6 2016 WL 4529822, at \*8 (D. Ariz. Aug. 30, 2016). That is why the Defendant-  
7 Officers’ perceptions are relevant and inform the *Graham* reasonableness inquiry,  
8 and that is why the officers’ perceptions are admissible.  
9

10  
11  
12 So, back to where we started: *Boyd*. There can be no doubt that what the  
13 Defendant-Officers here “perceived just prior to the use of force is in dispute . . . .”  
14 *Boyd*, 576 F.3d at 944. The evidence they intend to offer and arguments they  
15 intend to make in the context of their “suicide by cop” defense will support their  
16 version of the circumstances leading up to the use of force. This evidence is thus  
17 relevant and admissible. *See id.*  
18

19  
20 Lest there be any doubt surrounding the parties’ dispute over the events in  
21 question, Plaintiffs’ motion itself makes clear that the parties dispute the  
22 reasonableness of the Defendant-Officers’ perceptions leading up to the force. *See*  
23 *Dkt. #68, PageID#: 508* (arguing that a “suicide by cop” theory is “highly disputed  
24 by the evidence”). And Plaintiffs are well-aware that the officer-witnesses and  
25 Defendant-Officers perceived the Decedent as intending to commit “suicide by  
26 cop”. *See generally* Defs.’ Opp’n to Mot. In Limine to Exclude Information  
27  
28

1 Unknown to Officers at Time of Shooting, Exhibits A-E, attached to Declaration of  
2 Muna Busailah. Yet, Plaintiffs still resist the only conclusion that the law  
3 supports: the “suicide by cop” theory is relevant, and evidence and argument  
4 support the same must be admitted at trial.  
5

6  
7 **II. EVIDENCE OF “SUICIDE BY COP” DOES NOT REQUIRE**  
8 **EXPERT TESTIMONY, IS NOT HEARSAY, AND IS NEITHER**  
9 **IMPROPER CHARACTER EVIDENCE NOR UNFAIRLY**  
10 **PREJUDICIAL**  
11

12 Plaintiffs’ resistance takes the form of claiming improper character evidence  
13 under Fed. R. Evid. 404, unfair prejudice under Fed. R. Evid. 403, and lack of  
14 expert designation under Fed. R. Evid. 702. But Defendant-Officers’ use of any  
15 evidence in support of their defense is not *improper* character evidence prohibited  
16 under Fed. R. Evid. 404: “In a suicide-by-cop case, the intent of the decedent—  
17 namely, whether he intended to provoke the police into shooting him—is directly  
18 at issue. [And] [i]ntent is a permissible use of ‘other bad act’ evidence.” *Chien*  
19 *Van Bui v. City & Cnty. of San Francisco*, No. 11-CV-04189-LB, 2018 WL  
20 1057787, at \*3 (N.D. Cal. Feb. 27, 2018) (citing Fed. R. Evid. 404(b)(2)).  
21  
22

23  
24 Nor does Fed. R. Evid. 403 or 702 fare any better in Plaintiffs’ spew to  
25 exclude such evidence. Put simply, as the Court has found previously, there is “no  
26 authority supporting Plaintiffs’ argument that merely presenting a ‘suicide by cop’  
27 theory is unfairly prejudicial.” *Barillas v. City of Los Angeles*, No.  
28

1 CV1808740CJCASX, 2021 WL 4434977, at \*6 (C.D. Cal. Apr. 12, 2021)(citing  
2 *Boyd v. City & County of San Francisco*, 576 F.3d 938, 944 (9th Cir. 2009)).  
3 Likewise, “[e]xpert testimony is not required for the jury to evaluate Defendants’  
4 anticipated ‘suicide by cop’ argument because interpreting [the evidence] does not  
5 require any specialized knowledge.” *Id.* Indeed, “a lay person is capable of  
6 understanding” the events leading up to the incident. *Id.*

7  
8  
9 As a last-ditch effort, Plaintiffs make a catch-all hearsay argument: “this  
10 Court should . . . exclude *any documents* containing *the information* that Plaintiffs  
11 seek to exclude . . . .” Dkt. #68, Page ID #:511. This Court should decline to  
12 make a wholesale ruling that precludes the admissibility of unspecified documents  
13 containing the nondescript and convoluted information that Plaintiffs inartfully  
14 articulated in their motion. And to the extent Plaintiffs have identified specific  
15 documents – including the 911 calls and police reports – those records are either  
16 non-hearsay, *see, e.g.*, Fed. R. Evid. 801(d)(2)(A), fall under well-known  
17 exceptions to hearsay, *see, e.g.*, Fed. R. Evid. 803(1)-(2)(present sense impression  
18 and excited utterance); *id.* at 803(6) (business record), and/or will be used for non-  
19 hearsay purposes (such as the effect on the listener).

### 20 21 22 23 24 **III. CONCLUSION**

25 Plaintiffs’ resistance to the defense’s “suicide by cop” theory must give way.  
26 The Defendant-Officers’ “suicide by cop” defense is based on relevant and  
27 otherwise admissible evidence and is grounded in well-settled legal principles.  
28

1 Plaintiffs' expulsion of arguments to the contrary fails. This Court should deny  
2 Plaintiffs' motion.  
3  
4

5 Date: May 16, 2024

**STONE BUSAILAH, LLP**

6 By: /s/ Muna Busailah

7 MUNA BUSAILAH, Esq.

8 Attorney for Defendants JOSE ZAVALA,  
9 JULIO QUINTANILLA  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28